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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/397,300	09/15/1999	MARKO VALO	442-008869-U	8581

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EXAMINER

RAMOS FELICIANO, ELISEO

ART UNIT	PAPER NUMBER
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2682

DATE MAILED: 05/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/397,300

Applicant(s)
VALO et al.

Examiner
Eliseo Ramos-Feliciano

Art Unit
2682



– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Sep 15, 1999 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4,5
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The references listed in the Information Disclosure Statements filed on September 15, 1999, January 10, 2000, and April 3, 2000 have been considered by the examiner (see attached PTO-1449 form).

Drawings

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show an appropriate labeled representation of the invention. 37 CFR 1.83(a) reads as follows:

(a) The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box).

The drawings are objected to because they include graphical drawing symbols or rectangular boxes without appropriate legends. Boxes (e.g. TAF, IWF, DTE, L2R, RLP, CC, IU, UI, CT) in **Figures 2, 4 and 9** need appropriate legends. See 37 CFR 1.84(o). Correction is required.

For example, element "96" (Fig. 9) could be labeled --DETECTION MEANS-- if intended to be so. Correction is required.

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4. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. **Claims 1-4, 6, AND 8-11** are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki (US Patent Number 6,044,067).

Regarding **claims 1, 3 and 11**, Suzuki discloses a mobile terminal (MS) and a method for transmission rate control; see title and abstract. A TDMA signal is divided in frames, wherein the frames are divided in time slots, e.g. 25 time slots; see column 1, lines 23 & 58-64, column 3, lines 56-67, and Figures 1-3. The transmission rate of communication between a base station and

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a mobile station/terminal (MS) is changed by modifying the number (amount) of time slots used; see column 4, lines 40-58. The number (amount) of time slots reads as a "bearer" as claimed.

The mobile terminal (MS) measures a power signal from a base station, and determines if there is a need for changing (modifying) the transmission rate, i.e., the number (amount) of time slots used; see column 17, lines 45-60. In other words, the mobile terminal (MS) detects the need for bearer modification as claimed. Two consecutive time slots are used as claimed; see e.g. column 4, lines 50-51 & 63.

The detection step could be accomplished, e.g., by a status detecting means that detects a communication status (status indications); see column 2, lines 38-47.

The mobile terminal (MS) includes transceiving means and control means as claimed; see Figures 4 and 14. The transceiving means communicate with a mobile network element, e.g. a base station A or B using the modifiable bearer explained above. The controller of the MS (control means) control the process of changing the bearer, i.e. the negotiation. See e.g. column 4, lines 40-58.

Regarding **claim 2**, Suzuki discloses everything claimed as applied above (see rejection of *claim 1*). In addition, the frames are transmitted over the air interface; see Figure 14.

Regarding **claim 4**, Suzuki discloses everything claimed as applied above (see rejection of *claim 1*). In addition, the bearer modification could be lowering the transmission rate (downgrading); see column 2, line 35 & 43-44. But could also be increasing (upgrading) as suggested at column 17, lines 54-60.

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Regarding **claims 6 and 9**, Suzuki discloses everything claimed as applied above (see rejection of *claim 1*). In addition, the status indication explained before reads as either a flow control indication or an ending indication as claimed, because the indication could be interpreted as a control of the rate flow or an end of previous transmission rate. See col. 2, lines 43-47.

Regarding **claims 8 and 10**, Suzuki discloses everything claimed as applied above (see rejection of *claims 1 and 6*). In addition, as explained above, two indications need to be detected. Therefore, a counter as claimed is needed for determining when the two indications are detected.

The bearer modification could be lowering the transmission rate (downgrading); see column 2, line 35 & 43-44. The downgrading step takes effect after the detection of the two indications as claimed. Hence, Suzuki meet all the claimed limitations.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 5 and 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (US Patent Number 6,044,067) in view of the knowledge generally available to one of ordinary skill in the art.

Regarding **claim 5**, Suzuki discloses everything claimed as applied above (see rejection of *claim 1*). In addition, the type of terminal (e.g. GSM) and service (e.g. HSCSD), *inter alia*, are

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requirements of a particular system. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement Suzuki communication system using those particular types of terminals (e.g. GSM) and services (e.g. HSCSD) as claimed because of design choice.

Regarding **claim 7**, Suzuki discloses everything claimed as applied above (see rejection of *claims 5*). In addition, as explained above, two indications need to be detected. Therefore, a counter as claimed is needed for determining when the two indications are detected.

Citation of Pertinent Prior Art

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Budin et al. (U.S. Patent Number 5,276,703) see column 8, lines 21-46.

Kanerva et al. (U.S. Patent Number 6,052,385) see Figures, and abstract.

Sato (U.S. Patent Number 6,130,884) see column 1, lines 38-53.

Conclusion

10. Any response to this Office action should be mailed to:
Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314

for formal communications intended for entry, informal communications or draft communications; in the case of informal or draft communications, please label "PROPOSED" or "DRAFT".

Hand-delivered responses should be brought to
Crystal Park II
2121 Crystal Drive

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Arlington, VA
Sixth Floor (Receptionist).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eliseo Ramos-Feliciano whose telephone number is (703) 305-0078. The examiner can normally be reached on Monday through Thursday (first week of bi-week) and Monday through Friday (second week of bi-week) from 8:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin, can be reached on (703) 308-6739. The fax phone number for this Group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700, or call Group customer service at (703) 306-0377.

ELISEO RAMOS-FELICIANO
PATENT EXAMINER

ERF/erf
May 5, 2002.



NGUYEN T. VO
PRIMARY EXAMINER